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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,469	09/08/2003	Kia Silverbrook	BAL50US	1560
24011	7590	07/13/2006	EXAMINER	
SILVERBROOK RESEARCH PTY LTD 393 DARLING STREET BALMAIN, NSW 2041 AUSTRALIA			KIM, PETER B	
			ART UNIT	PAPER NUMBER
			2851	

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/656,469	<b>Applicant(s)</b> SILVERBROOK, KIA	
	<b>Examiner</b> Peter B. Kim	<b>Art Unit</b> 2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/113,053.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>92003</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

A foreign reference JP 11205517 A is not provided. Applicant is respectfully requested to provide a copy of the reference for consideration.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Steinberg et al. (Steinberg) (6,006,039).

Steinberg discloses in col. 1, line 58 – col. 4, line 62 and Fig. 1, 2 and 4, a method of capturing and processing sensed image, the method including sensing a viewed image (10, 12) to generate a viewed image signal, communicating the viewed image signal to a central processor (14), reading a printed data storage device (22), communicating the program signal to the central processor and executing the program at the central processor (Fig. 1 and 2). Steinberg discloses communicating the viewed image data to an image sensor interface, writing the image data to central processor, converting the viewed image data, and storing the converted image data (Fig. 2, 4) and reading a two-dimensional code printed on a planar element, communicating the program signal and transforming the program signal (Fig. 1, 2 and 4). Steinberg discloses printing the output image on a media (col. 1, lines 27-38).

Claims 1-3 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Steinberg et al. (Murase) (5,999,697).

Murase discloses in col. 3, line 50 – col. 4, line 45 and Fig. 1A-1C, a method of capturing and processing sensed image, the method including sensing a viewed image (1) to generate a viewed image signal, communicating the viewed image signal to a central processor (Fig. 3, ref 34), reading a printed data storage device (9), communicating the program signal to the central processor and executing the program at the central processor (Fig. 3). Murase discloses communicating the viewed image data to an image sensor interface, writing the image data to central processor, converting the viewed image data, and storing the converted image data (Fig. 3) and reading a two-dimensional code printed on a planar element, communicating the program signal and transforming the program signal (Fig. 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. (Steinberg) in view of McCarty (5,666,411).

Steinberg discloses the claimed invention as discussed above; however, Steinberg does not disclose detecting a bit pattern represented by the two dimensional code and applying XOR algorithms to the byte pattern. McCarty discloses detecting bit pattern and applying XOR

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algorithms (col. 12, lines 37-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of reading two dimensional code of McCarty to the invention of Steinberg in order to protect the software from corruption as taught by McCarty in the abstract.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murase et al. (Murase) in view of McCarty (5,666,411).

Murase discloses the claimed invention as discussed above; however, Murase does not disclose detecting a bit pattern represented by the two dimensional code and applying XOR algorithms to the byte pattern. McCarty discloses detecting bit pattern and applying XOR algorithms (col. 12, lines 37-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of reading two dimensional code of McCarty to the invention of Murase in order to protect the software from corruption as taught by McCarty in the abstract.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 6 and 7 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,750,944. Although the conflicting claims are not identical, they are not patentably distinct from each other because limitation regarding communicating the image data and the image processing program to the central processor as claimed in the current application is required in the claims of 6,750,944 even though such limitations are not expressly claimed. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a central processor and communicating the data to the processor in order to carry out the purpose of the 6,750,944 claim.

Claims 4 and 5 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,750,944 in view of McCarty.

6,750,944 patent discloses the claimed invention as discussed above; however, 6,750,944 patent does not disclose detecting a bit pattern represented by the two dimensional code and applying XOR algorithms to the byte pattern. McCarty discloses detecting bit pattern and applying XOR algorithms (col. 12, lines 37-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the method of reading two dimensional code of McCarty to the invention of 6,750,944 patent in order to protect the software from corruption as taught by McCarty in the abstract.

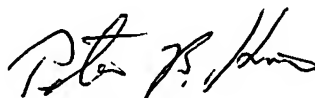
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter B. Kim whose telephone number is (571) 272-2120. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Peter B. Kim  
Primary Examiner  
Art Unit 2851

June 23, 2006